IN THE HONOURABLE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 834 /2002.

WRIT PETITION UNDER ARTICLES 226/227 OF CONSTITUTION OF INDIA

PETITIONER : Malyendra Singh Babra S/o Shri Harbans Singh, age 50 years, Prop. "Prince" Babra Transport, resident of Deviganj Road, Ambikapur, Distt. Surguja (C.G).

R. R. No. 833/02
Presented by Shri S. K. Mishra
dated 4.3.02

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, Through Secretary Department of Transport, Raipur (C.G).

2. Secretary, Regional Transport Authority Bilaspur ; C.G. and Taxation Authority;

3. District Transport Officer Raigarh (C.G).

1. PARTICULARS OF THE PETITIONER

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.834/2002 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	07-08-2002	

Shri R.N. Jha with Shri D.N. Prajapati, counsel for the petitioner.

Shri Sanjay Kumar Agrawal, Deputy Advocate General for the State/respondent No.1.

Heard.

The challenge in this writ petition is to the seizure of a passenger bus bearing Registration No. CPL 9961 and imposition of tax thereon.

Undisputedly, the vehicle in question was seized at a place, which was not on the route for which the permit was granted. The seizure memo which was drawn up, clearly indicates that at the time of seizure, relevant documents which are to be carried in the vehicle were not found. A copy of the seizure memo is annexed as Annexure P – 6. In this writ petition, a prayer is made for a declaration that the said passenger bus is not liable to be seized and that the imposition of tax be declared bad in law.

आदेश पत्रक

मामला क्रमांक W.P.No.834/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Section 20 of The Madhya Pradesh Motoryan Karadhan Adhiniyam, 1991 clearly provides that any person aggrieved by an order made for levy of tax or for penalty imposed under Section 13, or aggrieved by the seizure of motor vehicle made under Section 16, or aggrieved by any order passed under this Act, may, within the prescribed time prefer an appeal to the prescribed authority.

Admittedly, there is an efficacious alternative remedy available to the petitioner where even factual aspects can be gone into.

Learned counsel for the petitioner made a reference to a case of **J.M. Baxi & Co., - Vs – Commissioner of Customs, New Kandla & another** reported in 2001 (IX) SCC 275 and contended that the rule of exhaustion of alternative remedy cannot stand in the way of the High Court exercising its jurisdiction under Article 226 of the Constitution of India. There can be no dispute to the principle but as a rule of prudence, the Court do not exercise its power under Article 226 when an alternate and equally efficacious remedy is available.

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(42)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 837/02 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Even in paragraph 3 of Buxi's case (supra), the Apex Court has observed that normally the High Court ought not to interfere in exercise of its jurisdiction under Article 226 of the Constitution of India when an efficacious alternative remedy is available. But it could do so in special cases. In that case, the jurisdiction was exercised because the demand of 46 lakhs, which is the subject matter of challenge was onerous and also barred by time.

Having considered the matter, the Court declines to entertain this writ petition as in its opinion, the petitioner has an alternative efficacious remedy under Section 20 of The Madhya Pradesh Motoryan Karadhan Adhiniyam, 1991, which the petitioner would avail, if so advised.

With the aforesaid observations, the petition stands disposed of.

Sd/-
P.C NAIK
Judge

JUDGE

Murthy